

REMARKS

With entry of this amendment, claims 1-18, 20-22 and 25-27 are pending. The claims have been amended to more particularly specify that the measuring cell is a flow cuvette, and to correct minor typographical errors. Claims 23-24 have been cancelled. Support for the amendments can be found throughout the specification. No new matter has been added. Reconsideration is requested.

Claims 1, 3, 5-18, and 20-17 under 35 USC § 102(b) were rejected as being anticipated by Bukshpan et al. (US 2002/0198928). To the extent that it may be considered applicable to the presently pending claims, this rejection is traversed for the following reasons.

The current claims relate to a device and method wherein microscopic images of particles are recorded by means of a flow cuvette in which a suspension is introduced, and an optical sensor, the flow cuvette and optical sensor moving relative to one another during the measurement. Bukshpan et al. fails to teach any method or device in which a flow cuvette and an optical sensor move relative to one another during the optical recording of microscopic images, as required by independent claims 1 and 20. Thus, Bukshpan et al. does not anticipate the present invention. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 2 and 4 were rejected under 35 USC § 103(a) as being unpatentable over Bukshpan et al. in view of Ravkin et al. (US 2003/0134330). To the extent that it may be considered applicable to the presently pending claims, this rejection is traversed for the following reasons.

As detailed above, Bukshpan et al. fails to disclose each and every element of the present invention. Ravkin et al. do not remedy the failure of Bukshpan et al. to disclose each and every element of the main claims. In particular Ravkin et al. do not disclose an optical sensor that is moved relative to the flow cuvette during measurement. For this reason, the combination of Bukshpan et al. and Ravkin et al. do not render claims 2 and 4 obvious. Reconsideration and withdrawal of the rejection are respectfully requested.

All rejections having been addressed, it is respectfully submitted that this application is in condition for allowance, and Notice to that effect is respectfully requested.

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Respectfully submitted,

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